

ENVIRONMENTAL QUALITY

CHAPTER 30

WATER QUALITY

Sub-Chapter 18

Procedures for Local Water Quality District Program
Approval and Granting Enforcement Authority

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Sub-Chapter 18

Procedures for Local Water Quality
District Program Approval and
Granting Enforcement Authority

17.30.1801 PURPOSE (1) The purpose of this subchapter is to establish procedures for the approval of local water quality district programs, to establish procedures for granting enforcement authority to local water quality districts, and to ensure that the programs and enforcement actions are consistent with Title 75, chapter 5, MCA. Nothing in these rules may be considered to limit or restrict the authority of a local government to adopt rules and regulations authorized by other laws of the state. (History: 75-5-106, 75-5-201, MCA; IMP, 75-5-106, 75-5-311, MCA; NEW, 1993 MAR p. 543, Eff. 4/16/93; TRANS, from DHES, 1996 MAR p. 1499.)

17.30.1802 DEFINITIONS For the purposes of this subchapter, the following definitions, in addition to those in 7-13-4502 and 75-5-103, MCA, will apply:

(1) "District" means a "local water quality district" established with definite boundaries for the purpose of protecting, maintaining, and improving the quality of state water as authorized by Title 7, chapter 13, part 45, MCA, and the rules of this subchapter.

(2) "Program" means a local water quality district program designed to protect, maintain, and improve the quality of state water within the boundaries of a local water quality district established according to the procedures specified in Title 7, chapter 13, part 45, MCA. (History: 75-5-201, MCA; IMP, 75-5-106, 75-5-311, MCA; NEW, 1993 MAR p. 543, Eff. 4/16/93; TRANS, from DHES, 1996 MAR p. 1499.)

17.30.1803 NOTIFICATION REQUIREMENTS (1) Upon passage of a resolution of intention to create a local water quality district, the commissioners shall submit a copy of the resolution to the department as notification that the commissioners intend to develop a district program and to apply for board approval of the program. Submission of the resolution of intention to the department initiates the consultation process required by 75-5-311(1), MCA. (History: 75-5-201, MCA; IMP, 75-5-311, MCA; NEW, 1993 MAR p. 543, Eff. 4/16/93; TRANS, from DHES, 1996 MAR p. 1499.)

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17.30.1805 PROGRAM APPLICATION CONTENT (1) To obtain approval of a district program, the district's board of directors shall file an application with the department. The application shall contain the following:

(a) a map delineating the boundaries of the district and a description of the existing or potential water pollution problems within the proposed district;

(b) a map indicating general land ownership and use within the district for land units 1 square mile or more in size;

(c) a general description of the water resources and water uses within the district, if the information is available;

(d) identification of the district program goals and objectives;

(e) a district program work plan and implementation schedule;

(f) a program budget;

(g) information necessary for the department to conduct an analysis of potential impacts to human health and the environment caused by implementation of the district program;

(h) a description of any proposed district permit programs; and

(i) copies of any proposed local ordinances for the regulation of the facilities and sources of pollution specified in 75-5-311(4), MCA, along with a statement demonstrating that the local ordinances meet the following conditions:

(i) the local requirements are compatible with and no less stringent than state requirements for the protection of water quality, pursuant to 75-5-311(5)(a), MCA, and

(ii) the district's enforcement procedures and enforcement actions are consistent with state enforcement actions, pursuant to 75-5-311(5)(b) and (c), MCA. (History: 75-5-201, MCA; IMP, 75-5-311, MCA; NEW, 1993 MAR p. 543, Eff. 4/16/93; TRANS, from DHES, 1996 MAR p. 1499.)

17.30.1806 PROGRAM APPROVAL AND REPORTING (1) Upon receipt of a district program application by the department, the department will have 30 calendar days to conduct a completeness review of the application. If the application is incomplete, the department shall send written notification to the board of directors identifying the deficiencies and requesting additional information. Upon receipt of the requested information, the department will have 30 days to conduct a completeness review.

(2) Upon determination that the application is complete, the department shall immediately notify the board of directors and submit the completed application to the board, along with a report and recommendation regarding approval of the district program. At its next regularly scheduled meeting following the department's submission of the report and recommendation under this rule, the board shall hold a hearing on the application.

(3) Prior to implementation of the local water quality

district program in areas that have been added to the district, changes in the boundaries of a district must be described in a program amendment and submitted to the board for approval as an amendment to the approved program in accordance with 75-5-311(7), MCA, and the procedures in (1) and (2) of this rule.

(4) One year after board approval of a district program and annually thereafter, the board of directors shall submit to the department a report that evaluates the effectiveness of the district program. The report shall include a description of program activities, a discussion of the degree to which program goals, objectives and schedules have been satisfied, monitoring results, a budget summary, and a description of the number and status of permits issued and enforcement actions initiated, as applicable to a particular district program.

(5) A district shall retain all records for a minimum of 3 years and make its monitoring data available to the department upon request. (History: 75-5-201, MCA; IMP, 75-5-311, MCA; NEW, 1993 MAR p. 543, Eff. 4/16/93; TRANS, from DHES, 1996 MAR p. 1499.)

17.30.1807 PROCEDURES FOR GRANTING STATE ENFORCEMENT AUTHORITY TO LOCAL WATER QUALITY DISTRICTS (1) Whenever a person is in violation of 75-5-605, MCA, at a location within the district, the department may request that the district enforce the provisions of Title 75, chapter 5, MCA, and rules implementing that chapter for the particular violations. Alternatively, the district may request enforcement authority from the department in a particular case as specified under this rule.

(2) The district shall submit a letter to the department requesting authorization to enforce the provisions of Title 75, chapter 5, MCA, which contains appropriate documentation of the violation(s) as required by 75-5-106, MCA.

(3) The department shall authorize a district to enforce the provisions of Title 75, chapter 5, MCA, in response to a district's request unless the department retains jurisdiction and pursues enforcement.

(4) A district is authorized to enforce the provisions of Title 75, chapter 5, MCA, and rules implementing that chapter upon receipt of a letter issued by the department granting enforcement authority for a particular case. The department shall respond to the district's request within 5 working days after the department's receipt of the request. The letter of authorization may include any limitations or conditions determined necessary by the department. Nothing in the grant of authority to a district may be construed to limit the department's legal responsibility and authority to take enforcement action against the person responsible for the source of pollution.

(5) The department may revoke the enforcement authorization for a district if it determines that conditions exist that warrant such revocation. Such conditions may include but are not limited to:

(a) the district lacks adequate enforcement capabilities or resources for effective enforcement efforts;

(b) the district requests the department to undertake enforcement in the case;

(c) the district has not complied with the conditions and limitations in the letter of authorization; or

(d) a re-assessment of conditions or change of conditions that indicate that enforcement by the department would be more effective than local enforcement.

(6) A district authorized to undertake enforcement actions pursuant to this section shall coordinate its enforcement activities with the department in a manner determined by the department. (History: 75-5-106, 75-5-201, MCA; IMP, 75-5-106, MCA; NEW, 1993 MAR p. 543, Eff. 4/16/93; TRANS, from DHES, 1996 MAR p. 1499.)

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